THE HON'BLE SRI JUSTICE S.ANANDA REDDY

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WRIT PETITION No.11647 of 2005

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DATED: 06-12-2005

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Between:

Sri Surisetti Sanni Babu . . .Petitioner

And

The Branch Officer, Visakhapatnam Coop.Bank

Ltd., Visakhapatnam, and another . . .Respondents

THE HON'BLE SRI JUSTICE S.ANANDA REDDY

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WRIT PETITION No.11647 of 2005

O R D E R:

This writ petition is filed by the petitioner aggrieved by the action of the respondents in proceeding against the property of the petitioner without passing appropriate order as to the objections with reference to the notice, dated 03-03-2005.

It is stated that when the respondents issued a notice, dated 03-03-2005, under Section 13(2) of the Securitisation and Reconstruction of Financial Assets

and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "the Act"), the petitioner raised objections by filing a reply, dated 02-05-2005. But the grievance of the petitioner is that though as per the decision of this Court in **KAMARAPAU SIVA KUMAR v. SIRIMALLA ASHOK,** the respondents-bank is obligatory to pass an order considering the objections, no such order was passed, but issued a sale notice, dated 10-05-2005. Therefore, he was constrained to approach this Court seeking to quash all the proceedings that have taken by the respondents for recovery of the alleged amount due from him.

A counter is filed on behalf of the respondents denying all the allegations made disputing the claims of the petitioner.

At the time of hearing, Sri S.Ravindranath, learned counsel appearing for the respondents stated that under the provisions of the Act, the petitioner has got an effective remedy of appeal provided under Section 17 of the Act to the Debt Recovery Tribunal, if the petitioner is aggrieved by any of the actions contemplated under sub section (4) of Section 13 of the Act. In the light of the effective remedy of appeal available, the present writ petition itself is not maintainable.

In response, learned counsel for the petitioner has fairly conceded that the petitioner has no objection to approach the appellate authority-Debt Recovery Tribunal. But, however, the interest of the petitioner must be safeguarded by directing the respondents not to take any coercive steps, till he approaches the Debt Recovery Tribunal.

Under the above circumstances, without expressing any opinion on the merits of the matter, the writ petition is disposed of directing the petitioner to approach the Debt Recovery Tribunal as provided under Section 17 of the Act, within a period of ten days from today. In the meanwhile, the respondents are directed not to take any coercive steps up to the expiry of the said period. However, it is left open to the petitioner to obtain necessary orders from the Debt Recovery Tribunal to protect his interest. There shall be no order as to costs.

(S.ANANDA REDDY, J)

6th DECEMBER, 2005.

Note: furnish copy by tomorrow.

B/o

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